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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

LEWIS, RALPH A

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/072,826	Applicant(s) CAO, DENSEN	
	Examiner Ralph A. Lewis	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 is/are allowed.
- 6) ☒ Claim(s) 8-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4, 5</u> . | 6) <input type="checkbox"/> Other: ____. |

Rejections based on 35 U.S.C. 112, second paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 confusingly appears to end in midsentence.

Rejections based on Obvious-type Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 8-23 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over

claims 1-20 of copending Application No. 10/016,992;
claims 1-20 of copending Application No. 10/017,272;
claims 1-20 of copending Application No. 10/017,454;
claims 1-20 of copending Application No. 10/017,455;
claims 1-23 of copending Application No. 10/067,692;
claims 1-17 of copending Application No. 10/071,847;
claims 1-17 of copending Application No. 10/072,462;
claims 1-18 of copending Application No. 10/072,613;
claims 1-19 of copending Application No. 10/072,635;
claims 1-20 of copending Application No. 10/072,659;
claims 1-20 of copending Application No. 10/072,852;
claims 1-17 of copending Application No. 10/072,831;
claims 1-20 of copending Application No. 10/072,853;
claims 1-20 of copending Application No. 10/072,859;
claims 1-20 of copending Application No. 10/073,672;
claims 1-20 of copending Application No. 10/073,819;
claims 1-20 of copending Application No. 10/073,822;
claims 1-19 of copending Application No. 10/073,823; and
claims 1-20 of copending Application No. 10/076,128.

The limitations of the present claims all appear to broader or slightly different obvious versions of the pending claims in the above identified applications. Merely leaving out limitations (e.g. the "wall outlet power adapter" of claim 1 in 10/016,992) in

order to make the claims broader or providing for different groupings of the elements set forth in the claims of the above identified pending applications would have been obvious to the ordinarily skilled artisan. The "light reflective device" limitation of the present claims is met by the well limitation of the other pending applications

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Rejections based on Prior Art

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 8-14, 16-20, 22 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Logan et al (US 6,692,251).

Logan et al disclose a dental curing light having a secondary heat sink 39, primary heat sink 36, semi conductor chip 30, protective cover 40 and light reflective device 43.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills (WO 99/16136) in view of Doiron et al (5,698,866).

Mills discloses a dental curing light (page 1, second paragraph) comprised of a hand held wand (Figure 5) having a light module 47, an elongated heat sink 45, 50, 51, having a distal end surface serving as a mounting platform on which primary heat sink 48 is mounted and light emitting semiconductors 43 mounted to the primary heat sink 48. Doiron et al, however, teach that an improvement over mounting diodes on a flat surface (Figures 9 and 10) is mounting them in a well (or cone) (Figures 11 and 12) so that more light from the LEDs is reflected forward in the desired direction. To have mounted the Mills LEDs in wells as taught by Doiron et al so that more light is reflected forward in the desired direction would have been obvious to one of ordinary skill in the art.

Claims 15 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan et al (US 6,692,251). One of ordinary skill in the art in constructing the Logan et al device would have found it obvious as a matter of routine to have constructed the Logan et al within the range of dimensions claimed.

Allowable Subject Matter

Claims 1-7 are allowed. The prior art fails to teach nor fairly suggest the claimed arrangement with a well on the primary heat sink in addition to a light reflective cone connected with an elongate heat sink as particularly claimed in combination with the other specified elements


Prior Art

Applicant's information disclosure statements of February 5, 2002 and August 5, 2002 have been considered an initialed copy enclosed herewith.

Adam et al (6,419,483 B1), Boutoussov et al (US 6,439,888 B1), Fregoso (US 6,611,110 B1), Melikechi et al (6,511,317), Otsuka (6,638,063), Decaudin et al (6,692,250), Plank (6,695,614), Fischer et al (6,702,576), Bianchetti et al (EP 1 090 607 A1) and Reipur (WO 02/33312 A2) are made of record.

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(703) 308-0770**. Fax (703) 872-9306. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (703) 308-2582.

R.Lewis
March 22, 2004


Ralph A. Lewis
Primary Examiner
Au3732